



## Memorandum # 13/2002

Commonwealth of Massachusetts | Public Employee Retirement Administration Commission  
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Joseph E. Connarton, *Executive Director*

### MEMORANDUM

TO: All Retirement Boards

FROM: Joseph E. Connarton, Executive Director

RE: Emergency Regulations – 840 CMR 15.05 Acceptance of Pre-tax Roll-overs from “Eligible Retirement Plans”

DATE: March 4, 2002

Enclosed is a copy of 840 CMR 15.05, an emergency PERAC regulation, now in effect, that authorizes all Retirement Boards to accept pre-tax roll-overs from eligible retirement plans for the purchase of creditable service. The changes contained in these regulations are permitted as a result of the Federal Economic Growth and Tax Relief Reconciliation Act of 2001 (“EGTRRA”).

These regulations allow any member who is entitled to purchase creditable service to do so by means of a direct, pre-tax roll-over from an eligible retirement plan described in the regulation. These eligible retirement plans include deferred compensation plans under IRS Code Section 457, individual retirement accounts and individual retirement annuities under IRS Code Section 408(a), qualified plans under IRS Code Sections 401(a) or 401(c) and annuity contracts under IRS Code Section 403(b).

It is important to remember that these regulations do not establish new eligibility provisions for purchase of creditable service. Only creditable service, which can be purchased pursuant to G.L. c. 32, can be purchased using these roll-overs. These regulations only expand the sources of funds from which a member can pay for such purchases.

While the distribution from an eligible plan will be pre-tax for Federal Income Tax purposes, there may be State Income Tax implications. These tax implications should be disclosed to the members by the plan making the roll-over. Members should be advised to contact an attorney or tax professional for more information on possible tax implications.

The Annual Statement for 2002 will be modified to reflect the source of roll-overs into the Retirement System and the destination of roll-overs out of the Retirement System. Your records

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should reflect this information so that it can be accurately reported on next year’s Annual Statement.

As noted in PERAC MEMO #23/2001, elective buybacks that are made by withholding funds from a member’s regular compensation will remain “post-tax” until PERAC receives a determination letter from the Internal Revenue Service that will allow these contributions to be withheld on a pre-tax basis.

We trust the foregoing is of assistance. If you have further questions or concerns, please contact this office.

Enclosure